

**REMARKS**

Claims 1-9, 13-27, and 29-34 are pending in the present application. Claims 26, 27, and 29-34 stand allowed, claims 1-9, 13, and 16-25 stand rejected, and claims 14 and 15 stand objected to. By virtue of this response, claim 1 has been amended, claims 18-25 have been cancelled, and new claims 35-40 have been added. Accordingly, claims 1-9, 13-17, and 29-40 are currently under consideration. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented.

***Allowable Subject Matter***

Applicants thank the Examiner for the indication of allowable subject matter. In particular, that claims 26-27 and 29-34 are allowed and that claims 14 and 15 are objected to but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As indicated herein, claim 1 has been amended to include subject matter similar to that recited by claim 26, and indicated allowable on Page 7 of the Office Action (the particular reasons for the allowance of claim 1 are addressed in greater detail below with respect to the instant rejections). Further, new claims 35-40 have been added herein, claim 35 including the features of previously presented claims 1 and 14. Accordingly, it is believed that claim 35 (and claims depending therefrom) are in immediate condition for allowance.

***Claims Rejections – 35 USC § 103(a)***

A. Claims 1-9, 13, and 16-23 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Opsal (U.S. Patent No. 5,042,952) in view of Fanton (U.S. Patent No. 5,181,080).

As indicated above, Applicants have cancelled claims 18-23 and have amended independent claim 1 to recite a system for measuring a characteristic of an optical article “wherein the reference location is movable during a scan to at least two different positions along an optical axis of the probe path.” Applicants believe these features are not disclosed or suggested by the combination of Opsal and Fanton.

Initially, it is noted that the Examiner indicated that similar features recited in allowed claim 26 were not disclosed or suggested by the prior art. In any event, the combination of Opsal and Fanton fails to disclose or suggest a system operable to focus the probe beam path to a reference location that is movable to multiple positions along the probe path during a scan, let alone, detecting the light from multiple reference locations as recited. For instance, as previously stated by Applicants in the last amendment, Opsal merely describes that 3-dimensional effects may be obtained from 1-dimensional solutions, but fails to disclose or suggest scanning at a multiple locations along the optical axis of the probe path as recited. Thus, even if Opsal discloses or suggest focusing the beam of light to accommodate for differences in the surface of an article, there is no disclosure or suggestion of focusing the beam of light at multiple locations along the optical axis of the probe path when measuring an optical article.

Accordingly, for at least these reasons, Applicants request the rejection be withdrawn and claim 1 (and all claims depending therefrom) allowed.

B. Claims 24 and 25 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Opsal (U.S. Patent No. 5,042,952) and Fanton (U.S. Patent No. 5,181,080) as applied to claim 19 and further in view of Migeotte (U.S. Patent No. 3,688,235).

Claims 24 and 25 have been cancelled herein and the rejection is therefore moot.

**CONCLUSION**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 495812005700. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: April 11, 2008

Respectfully submitted,

By Electronic Signature /Christopher B. Eide/  
Christopher B. Eide

Registration No.: 48,375  
MORRISON & FOERSTER LLP  
755 Page Mill Road  
Palo Alto, California 94304-1018  
(650) 813-5720